

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

HOMELAND INSURANCE COMPANY OF
NEW YORK,

Plaintiff,

v.

CLINICAL PATHOLOGY
LABORATORIES, INC., AND SONIC
HEALTHCARE USA, INC.,

Defendants.

CIVIL ACTION NO.: 1-20-cv-783

**UNOPPOSED AND AGREED MOTION TO EXTEND CERTAIN DEADLINES
SET IN THE AMENDED AGREED SCHEDULING ORDER**

Plaintiff Homeland Insurance Company of New York and Defendants Clinical Pathology Laboratories, Inc. and Sonic Healthcare USA, Inc. jointly move this Court for a five-month extension of all deadlines in the Amended Agreed Scheduling Order [Dkt. 59] due to the medical emergency described below.

1. Homeland filed this action on July 24, 2020 [Dkt. 1].
2. On May 19, 2021, the Court entered an Agreed Scheduling Order submitted by the parties [Dkt. 32].
3. On September 28, 2021, the Court entered an Amended Agreed Scheduling Order submitted by the parties [Dkt. 59].
4. Paragraph 12 of the Amended Agreed Scheduling Order provides that “[b]y filing an agreed motion, the parties may request that this Court extend any deadline set in this Order, with the exception of the dispositive motions deadline and the trial date.”

5. One of the lead attorneys in this matter was recently diagnosed with a serious medical condition requiring surgery and for which the attorney anticipates taking a medical leave of several months for the surgery and recovery. In light of this attorney's incapacity and significant involvement in this matter, the parties have met and conferred regarding the deadlines in the Amended Agreed Scheduling Order, and have agreed that it would be prudent to extend those deadlines by five months. The agreed-upon extensions are reflected in the proposed order filed with this motion.

6. Specifically, counsel agreed that it would be prudent to extend the deadlines as follows:

- All parties asserting claims for relief shall file their designation of testifying experts and serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before **November 23, 2022.**
- Parties resisting claims for relief shall file their designation of testifying experts and serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before **December 21, 2022.**
- The parties shall complete all discovery on or before **September 30, 2022.**
- All dispositive motions shall be filed on or before **October 28, 2022** and shall be limited to 20 pages. Responses shall be filed and served on all other parties not later than 14 days after the service of the motion and shall be limited to 20 pages. Any replies shall be filed and served on all other parties not later than 7 days after the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion.

7. In addition, counsel understands from Judge Pitman's Courtroom Deputy that the Court has **February 27, 2023** open as a trial date and that to continue trial, the parties should file this joint motion to amend. Counsel agreed that continuing trial to February 27, 2023 is prudent under the circumstances and respectfully request that the Court continue trial to that date.

8. The above agreed proposed extensions are reflected in the proposed order filed with this motion.

Dated: February 10, 2022

Respectfully submitted,

/s/ John T. Brooks

John T. Brooks (CA Bar #167793)

Jenna A. Fasone (CA Bar #308886)

SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP

501 West Broadway, 19th Floor

San Diego, CA 92101

Telephone: (619) 338-6500

Fax: (619) 234-3815

jbrooks@sheppardmullin.com

jfasone@sheppardmullin.com

Admitted Pro Hac Vice

Joseph R. Little (Bar No. 784483)

The Little Law Firm

440 Louisiana Street, Suite 900

Houston, Texas 77002

Telephone: (713) 222-1368

Fax: (281) 200-0115

jrl@littlelawtexas.com

*Attorneys for Plaintiff Homeland Insurance
Company of New York*

Ernest Martin, Jr. (Bar No. 13063300)
Greg Van Houten*
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, TX 75219
214-651-5651 Direct
214-651-5000 Main
214-200-0519 Fax
ernest.martin@haynesboone.com
greg.vanhouten@haynesboone.com
*Admitted Pro Hac Vice

Mark T. Beaman (Bar No. 01955700)
Ryan Bueche (Bar. No. 24064970)
GERMER BEAMAN & BROWN PLLC
One Barton Skyway
1501 S Mopac Expy Suite A400
Austin, TX 78746
512-482-3504 Direct
512-472-0288 Main
512-472-0721 Fax
mbeaman@germer-austin.com
rbueche@germer-austin.com

Attorneys for Defendants

CERTIFICATE OF CONFERENCE

I hereby certify that, consistent with Local Rule CV-7(i), counsel for Defendants and counsel for Plaintiff conferred by telephone and e-mail regarding this motion prior to its filing. As reflected in the motion, both parties agree to and approve of the filing of this unopposed motion.

/s/ John T. Brooks

John T. Brooks

CERTIFICATE OF SERVICE

I hereby certify that, consistent with Local Court Rule CV-5, a true and correct copy of the foregoing was sent to all parties of record pursuant to the Electronic Filing Procedures and the Federal Rules of Civil Procedure on this 10th day of February, 2022.

/s/ John T. Brooks

John T. Brooks